

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

**IN RE PHARMACEUTICAL
INDUSTRY AVERAGE
WHOLESALE PRICE
LITIGATION**

THIS DOCUMENT RELATES TO:

STATE OF NEVADA V. ABBOTT
LABORATORIES, INC., ET AL., CA
NO. CV-02-00260-ECR (Nevada I)

STATE OF NEVADA V. AMERICAN
HOME PRODUCTS, ET AL., CA NO.
02-CV-12086-PBS (Nevada II)

MDL NO. 1456
Civil Action No. 01-12257-PBS
Judge Patti B. Saris

Chief Magistrate Judge Marianne B. Bowler

**SCHERING-PLOUGH CORP.'S AND WARRICK PHARMACEUTICALS CORP.'S
MOTION FOR LEAVE TO FILE UNDER SEAL**

Defendants Schering-Plough Corp. and Warrick Pharmaceuticals Corp., by their attorneys, hereby move this Court for leave to file the Unredacted Declaration of Ryan M. DiSantis Transmitting Exhibits to Defendants' Joint Memorandum in Support of Defendants' Joint Motion for Redress for Spoliation of Evidence under seal. This declaration attaches the following documents;

- Exhibit C.2 to Defendants' Joint Memorandum in Support of Defendants' Joint Motion for Redress for Spoliation Evidence, Reply Letter from Defendant Warrick Pharmaceuticals Corp. to L. Timothy Terry;
- Exhibit N to Defendants' Joint Memorandum in Support of Defendants' Joint Motion for Redress for Spoliation Evidence, Communications from Comprehensive Care Centers of Nevada; and
- Exhibit P to Defendants' Joint Memorandum in Support of Defendants' Joint Motion for Redress for Spoliation Evidence, Average Sales Price Quarterly Report for Bayer Pharmaceuticals.

Pursuant to the Protective Order entered by this Court on December 13, 2002 (the "Protective Order") both the parties in the above-captioned cases and non-party witnesses have designated many documents and other information produced in this litigation as either "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." The submission described above incorporates documents containing information that has been designated "HIGHLY CONFIDENTIAL." Specifically, the exhibits referenced above include references to pricing data and/or other information that defendants and non-party witnesses deem highly proprietary in nature. Pursuant to paragraph 15 of the Protective Order, any document or pleading containing materials designated "HIGHLY CONFIDENTIAL" shall be filed under seal.

A redacted version of the Declaration of Ryan M. DiSantis Transmitting Exhibits to Defendants' Joint Memorandum in Support of Defendants' Joint Motion for Redress for Spoliation Evidence will be filed publicly by hand.

Counsel for Schering-Plough Corp. and Warrick Pharmaceuticals Corp. has discussed this motion with counsel for the State of Nevada and the State of Nevada does not oppose this motion.

WHEREFORE, Defendants Schering-Plough Corp. and Warrick Pharmaceuticals Corp. respectfully request that the motion for leave to file the aforementioned submission under seal be GRANTED.

Respectfully submitted,

/s/ Ryan M. DiSantis

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*Attorneys for Schering-Plough Corp. &
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Dated: July 21, 2006

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

I hereby certify that counsel for Schering-Plough Corp. and Warrick Pharmaceuticals Corp. conferred with counsel for Plaintiff State of Nevada on July 19, 2006, in a good faith effort to resolve or narrow the issues set forth herein, and counsel to the State of Nevada indicated that the State of Nevada does not oppose this motion.

/s/ Ryan M. DiSantis
Ryan M. DiSantis

CERTIFICATE OF SERVICE

I, Ryan M. DiSantis, hereby certify that a true copy of the foregoing document was served upon all counsel of record in Nevada I and Nevada II electronically pursuant to Fed. R. Civ. P. 5(b)(2)(D) and CMO No. 2 on this 21st day of July, 2006, by causing a copy to be sent to LexisNexis File & Serve for posting and notification to all counsel of record.

/s/ Ryan M. DiSantis
Ryan M. DiSantis